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ABSTRACT

The purposes of this paper are to: (1) discuss the historical development of women in higher education; (2) describe the implementation of federal policies for women; (3) focus on selected problems encountered by women in the work-place; and (4) offer recommendations and suggestions for eliminating some of the problems that women encounter. The section on historical background highlights underrepresentation of women as students, employees, and leaders in higher education. Federal policies that are examined include the Fair Labor Standards Act (1938), the Equal Pay Act (1963), Title VII of the Civil Rights Act (1964), the Education Amendments (1972), and Executive Order 11246 (1965). Sexual discrimination and harassment issues and problems are featured. Recommendations from the Carnegie Commission's (1973) report regarding opportunities for women in higher education and from "The Personnel Administrator" (P. Somers, J. Clementson-Mahr) about handling sexual discrimination situations are provided. A 32-item bibliography is included. (JHP)

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AFFIRMATIVE ACTION AND WOMEN IN HIGHER EDUCATION

by

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Research Carried Out as Part of Doctoral Work
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Affirmative Action and Women in Higher Education

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INTRODUCTION

"For a man, 50 silver skekels; for a woman 30" (Leviticus 27:3-7). The Bible makes this dramatic, but oblique nonetheless, reference to double standards for men and women. Today, those standards have become a major concern. Attitudes about combining career and family have shifted significantly in the past decade; and attitudes about women in academia are no exception. The woman who earned her doctoral degree during the WWI era was still likely to devote time to hearth and home. Regretfully this woman often apologized for having any career at all. In the 1950's the woman educator was rare and seemingly subdued. However, in the 1960's, women demonstrated stronger career drive and an increased interest in higher education. By that time the proportion of women Ph.D's had increased by almost one-third. The women's movement of the late 1960's and early 1970's provided a significant influence in higher education. The cry of that era was for fair and equal treatment and equal employment rights through strict adherence to the principle of nondiscrimination.

In 1776 Thomas Jefferson, the 3rd president of the United States, proclaimed that "all men are created equal; they are endowed by their creator with certain inalienable rights;... to secure these rights, governments are instituted among men, deriving their just power from the consent of the government." Yet, while we are a nation committed to the idea of human equality,

history demonstrates that when dealing with minorities, and women in particular, America falls short. Women have lacked relevant role models, mentors, and opportunities. However, and ironically with increased opportunity come not only discrimination, but a tremendous amount of legal protection.

Senator Harrison Williams, in a 1972 senate debate on educational institutions under Title VII, argued that,

> "the most extensive discrimination in educational institutions is favored in the treatment of women. In institutions of higher education, women are almost totally absent in the positions of academic dean, and are grossly underrepresented in all other major faculty positions." Also he adds "that this discrimination does not only exist in regards to the acquiring of jobs, but that it is similarly prevalent in the area of salaries and promotions, where studies have shown a well established pattern of unlawful wage differential and discriminatory promotion practices" (Furniss and Graham, 1974 p. 219).

In higher education, affirmative action programs exist as a support service for women and other protected groups. Issues surrounding sex discrimination and sexual harassment are filled with contradiction and conflicts. It would appear that efforts of the last decade would by now have eliminated discrimination in academe. However, for women, this has not been the case. Thus,

the purposes of this paper are (1) to discuss the historical development of women in higher education; (2) to discuss the implementation of federal policies for women; (3) to focus on two major problems encountered by women at the work place; and (4) to make recommendations and suggestions to eliminate some of the problems which women encounter.

The history of institutions of higher education illustrates the long-standing problems women have faced. Tidball (1973) points out that the first American college, founded in the seventeenth century was specifically designed to educate men: Women were not permitted to enroll until the eighteenth century. By the mid-nineteenth century, women's colleges were founded, initiating women's path to equality. According to Tidball, affirmative action existed for women once access to higher education had been established for them. Progress toward equity in educational institutions was slow but sure.

Although the quality and number of educational institutions available for women increased, unfortunately the number of women employed in those types of institutions actually decreased. In 1918, 18 percent of faculties of co-educational institutions were made up of women; by 1970, the number had decreased to 14 percent. Women administrators have continued to decline in number until the mid 1970s. The reasons for this decline between 1918 and 1970 are that there exist for women:

1. few opportunities for experience that develop administrative skills;

2. absence of encouragement to attain significant positions;

3. a small number of relevant women role models;

4. the inability of individuals currently in decision-making posts to see potential leadership qualities in women; and

5. fear of success and other socially endured inadequate self-perceptions.

(Taylor and Shavlik, 1977, p. 94).

Those authors further assert that based on these reasons, most women are not prepared for leadership roles in higher education. Furthermore, women who <u>are</u> prepared must be ready to challenge obstacles in their struggle for equality. Martha Peterson, in an article by Taylor and Shavlik (1977), suggests that:

> "One answer to why there are so few women college presidents may be that, in the past, we have mostly waited to be selected. We have not actively set out to become college presidents, perhaps because we did not dare to aspire. The tenor of the times is very different today - and so are women, themselves. My plea is for women to work aggressively to eliminate the cultural sterotypes which limit women's roles and, thus, pave the way toward getting more women into leadership positions" (p. 95).

Today, affirmative action in higher education emphasizes hiring, paying, and promoting professional women to enhance opportuni-

ties for women faculty and administrators (Tidball, 1977). Regardless of the context, the overriding thorn is the same. In each instance, the basic issue that must be addressed is whether the moral, legal, and constitutional imperative of assuring equal treatment of and equal opportunity for all individuals, regardless of race, color, sex, religion, or national origin is upheld (Reynolds, 1986a).

Since 1972, women have been slowly yet steadily achieving leadership positions in higher education. Since that time, there has been a significant number of studies concerning the number of female college presidents in the United States and other new positions created in co-educational colleges and universities, where women have traditionally been underrepresented. These studies have enhanced our knowledge of women's career goals and objectives (Tinsley and Kaplan 1984).

For example: In 1981, the Pennsylvania State University and The Ford Foundation submitted a grant requesting funds to construct a national profile of college administrators. Thus, "The Leaders In Transition" was formed. This group administered a survey containing twenty-nine items to 4,000 administrators at 1,600 institutions. A response rate of 71% was received. From this pool came the following results:

College Administrators	Questionnaires Returned	Men	Women
Presidents	162	149	13
Provosts	154	133	21
Academic Deans	653	563	90
Registrars	198	142	56
Librarians	184	121	63
Student Affairs	166	133	33
Alumni	83	47	36
Financial Aid	152	98	54

This survey generally indicated that women were not distributed evenly across all categories at institutions of higher education. Although increasing in number, they remained clustered in pockets at the bottom of many career ladders primarily because of lack of opportunity (Tinsley and Kaplan, 1984).

For a woman, earning a post in higher education becomes impossible if equal access to that position is not provided through laws and regulations. Affirmative action means progress that is particularly related to an equal employment opportunity program, as well as to other progress designed to help women move toward equal opportunity (Jongeward and Scott, 1973). The principle of affirmative action and nondiscrimination is meaningless if it is not understood by all whether rich, poor, black or white, male or female in the same terms. (Reynolds 1986b).

Thus has occurred the expansion and involvement of the legislature in the field of civil rights, especially in the area of employment for women.

Taylor and Shavlik (1977) maintain that the issue of women in higher education deserved attention because of concerns asso-

ciated with visibility, stereotyping, and discrimination. Efforts aimed at reducing sex-role stereotyping and overt discrimination have resulted in federal legislation and pressures for affirmative action.

The first legal defenses available to women focussed on providing higher wages for women. The first among these was the many faceted Fair Labor Standard Act of 1938 an act which was amended in 1961, 1966 and 1972. Its basic requirements demanded minimum wage and overtime provisions. Each change helped expand the coverage and provide a stronger legal weapon for employed women.

The Equal Pay Act of 1963, which became effective in 1964, requires that men and women performing equal work must receive equal pay (Jongeward and Scott, 1973). It did not apply to administrative and professional employees until 1972. With that amendment, the act now covers employees of all private and public education institutions, from preschool through higher education. The Equal Pay Act provides that no employer may discriminate in the matter of pay where men and women are performing equally in work requiring the same skills, efforts, responsibilities, and working conditions.

An illustration of this principle is the 1970 decision by the Eighth Court of Appeals on Hodgson vs. Daisy Manufacturing Company. One aspect of the case involved a comparison of the respective duties of men and women press operators. Judge Miller of the

Western District of Arkansas concluded:

> "In summary, male and female press operators have the same primary job function and perform essentially the same duties. Male press operators engage in occasional materials handling and engaging in greater physical effort in closing the larger shot tubes and barrels. Female press operators have substantially higher production quotas and exert greater mental efforts when operating high-speed presses. The differences in job requirements between males and females are incidental and unsubstantial" (Jongeward and Scott, 1973, p. 46).

Title VII of the Civil Rights Acts of 1964 has had greater impact on working women than did the Equal Pay Act since it applies to discrimination in all terms of conditions of employment. When the act was originally introduced to Congress, the term "sex" was not included. This term was later added because it was believed that the act would not pass without it. With the Acts passage after considerable controversy and delay, women gained yet another device with which to legally fight discrimination.

Title VII prohibited discrimination against women with regard to hiring, compensation and privileges of employment. Under the act employees may not be discriminated against on the basis of sex; and discrimination in job assignments, layoffs, recalls, promotions, training, sick leave time and pay (including mater-

nity leave), medical and insurance coverage, vacations, and overtime are all made illegal. As employers continue to understand the provisions of Title VII, the more cognizant they become of discrimination.

The Education Amendments of 1972 has been noted as landmark documents for women in higher education. Jongeward and Scott (19 3) summarize the provisions established by this amendment:

1. The 1972 Education Amendments prohibit sex discrimination in all education programs receiving federal financial assistance and in admission, with certain exceptions;

2. Lenders who use the student loan marketing association are prohibited from discriminating against students on the basis of sex;

3. Written complaints setting forth the facts of discrimination should be directed to the Office of Civil Rights or the Department of Health, Education and Welfare;

4. Federal investigators will conduct a study of the complaint. If a violation is found, attempts at conciliation will be made. If these attempts fail, formal hearings are conducted by the agency.

5. If discrimination is found, the results will be either withholding or termination of federal financial assistance from the educational institution. In some instances, court actions may be sought. The attorney general may intervene in certain cases.

Another source of help for women who are experiencing discrimination is Executive Order 11246. This order was issued by President Lyndon B. Johnson in September 1965. It provided that all federal contracts would include a clause precluding discrimination against any employee or applicant for employment because

of race, color, religion, or national origin. Nondiscrimination on the basis of sex was added under Executive Order 11375, effective October 1968 (Carnegie Council, 1975).

Most policies were originally adopted with using the term "sex." However, as the number of women in higher education increased, the problems and concerns of both sexual discrimination and harassment also increased. As previously noted, Title VII of the Civil Rights Act of 1964, The Equal Pay Act of 1963, and Executive Order No. 11246 are principle sources of legal regulations addressing problems of sex discrimination. The equal protections clause in the Fourteenth Amendment of the United States Constitution also does so: "...no state shall... deny to any person with its jurisdiction the equal protection of the laws."

As illustrated by the increased number of law suits in today's federal and circuit courts, these policies have proven to be most beneficial when women have been able to recognize that they have been discriminated against. Additionally, these policies become increasingly effective when human rights are violated and women are aware of mechanisms to be used in order to alleviate discrimination practices.

An additional concern among women and specifically here, women in higher education, is sexual harassment. One reason for its prevalence is that the problem is complex and difficult to define. Often harassers are not aware that they are harassing. In 1980, the Equal Employment Opportunity Commission (EEOC) issued

its guidelines on Sexual Harassment (29 C.F.R. 1604.11) which stated: "Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when

1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

2. submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual;

3. such conduct has the purpose or effort of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment" (Lindgren, Ota, Zirkel, and Gieson 1974, p. 29).

Recognized as a form of sex discrimination by the Bureau of National Affairs, Inc., harassment may appear on the basis of sex, race, religion, national origin, and age. Sexual harassment may appear in a variety of circumstances. EEOC's view of sexual harassment includes the following considerations:

1) A man as well as a woman may be the victim of sexual harassment, and a woman as well as a man may be the harasser;

2) The harasser does not have to be the victim's supervisor. He or she may also be an agent of the employer, a supervisory employee who does not supervise the victim, a non-supervisory employee (co-worker), or, in some circumstances, even a non-employee;

3) The victim does not have to be of the opposite sex from the harasser. Since sexual harassment is a form of sex discrimi-

nation, the crucial inquiry is whether the harasser treats a member or members of one sex differently from members of the other sex.

According to Farley (1978, p. 79), "sexual harassment is best described as unsolicited nonreciprocal male behavior that asserts a woman's sex role over her function as a worker." This behavior may include verbal abuse; sexist remarks regarding a woman's clothing or body; patting, pinching, or brushing against a woman's body; leering or ogling; demands for sexual favors in return for hiring, promotion, and tenure; physical assault or rape. In the extreme, sexual harassment involves rape. But even without that violence, harassment is parallel to rape in many ways because while rape consists of physical force and fear, harassment involves economic force and fear. Like rape, harassment has been considered a joke or has been blamed on the victim. Unlike many other types of sex discrimination, sexual discrimination, sexual harassment in the work place remains an emotional issue for women. Most are afraid to speak out for fear of losing their positions, promotions, or raises.

The fundamental feature of most sexual harassment lawsuits is sex discrimination in violation of Title VII. Lawsuits alleging sexual harassment have been filed against universities, corporations, and even the Department of Justice. Even with that record, there are remedies that women in higher education and other areas of employment can follow to alleviate or improve circumstances in their struggle for equality.

In order to enhance the representation of women at all levels in higher education, the Carnegie Commission of 1973 issued a report regarding opportunities for women in higher education. This report was concluded with a number of recommendations for action to improve the visibility of women in higher education. The commission recommended the following:

1. All colleges and universities covered by federal affirmative action requirements relating to employment should develop written statements of affirmative action policy and should take active steps to see that these goals are achieved within a reasonable time period.

2. Departments and schools should recruit women and maintain records to indicate that steps have been taken. Efforts should be made to recruit minorities. Serious consideration should be given to appointing qualified women lecturers to faculty positions.

3. Every department should establish a goal relating to the relative representation of women on its regular faculty. Special consideration should be given to women who meet the institution's standards of competencies in terms of both realized and potential ability, even though they may have had a less substantial record of achievement in terms of research and publication than men who are being considered for the same position.

4. Men and women holding part-time appointments for family reasons should be permitted to achieve tenure on a part-time basis.

5. There should be equal treatment of men and women in all matters relating to salary, fringe benefits, and terms and conditions of employment.

6. Women should be entitled to maternity leave for a reasonable length of time, and affirmative action plans should include specific provisions relating to the definition of a reasonable length of time, right to accumulated leave, and other relevant considerations.

7. Colleges and universities should take vigorous steps to overcome the absence of women in top administrative positions. Women should be given opportunities by their departments to serve as chairpersons. Most important is an administrative stance that is highly positive toward providing opportunities for women to rise in the hierarchy (Carnegie Commission, 1973, pp. 148-151).

It is important for women in higher education and in the work place in general to know and understand federal policies that exist as tools for their protection. These tools contribute to formulating the foundation of affirmative action.

If the phenomena of sexual harassment is to be attacked, confrontation must take place with the individual, the institution, and the law. Although these avenues may not be as effective as others, they are decisive alternatives to alleviate the degradation of working women.

Somers and Clementson-Mahr (1979) recommended several ways to handle situations relative to sexual harassment. The authors encourage women to:

1. Document their performance following a case of exploitation, in case it is later questioned.

2. Attempt to capture evidence by way of witnesses, tape recordings, or verbal harassment.

3. Utilize an internal grievance procedure.

4. Utilize the development of a clear, explicit code of conduct.

5. Become familiar with legal provisions under Title VII and Title IX (p. 28).

CONCLUSION

Affirmative action is one of the most important issues before higher education because it integrates passion, ideologies, and strong opinions. It is founded upon equality, justice and opportunity.

Women in higher education have rights that are protected by the constitution and that deserve adherence from the American society. However, recognizing that affirmative action means different things to different people, ranging from diligence in ensuring against discrimination to conscious favoritism of persons of one race or sex, the bottom line is EQUALITY - the only answer (Reynolds, 1985). Women in higher education are encouraged to take risks and make certain challenges to openly bring forth those cases of discrimination.

Note the Supreme Court in its celebrated decision in Firefighters Local Union No. 1784 vs. Stotts, 104 S. Ct. 2576 (1984b). Stotts may well represent the most significant victory for civil rights in this nation in many years... not a victory for whites, males, union members or any other discrete group in our pluralistic society, but a victory for all Americans. The inescapable consequence of the Stotts decision was to move government at the federal,

state, and local levels closer to the overriding objective of providing all citizens with a truly equal opportunity to compete on merit for the benefits that our society has to offer--an opportunity that allows an individual to go as far as that person's energy, ability, enthusiasm, imagination, and effort will take him/her (Reynolds, 1984a).

REFERENCES

Carnegie Commission on Higher Education. (1973). Opportunities For Women In Higher Education. New York: McGraw-Hill Book Company.

Carnegie Council. (1975). Making Affirmative Action Work In Higher Education. San Francisco: Jossey-Bass Publishers.

Farley, L. (1978). Sexual Shakedown. New York: McGraw Hill.

Firefighters Local Union No. 1784 vs. Stotts, 104 S. Ct. 2576 (1984).

Furniss, T., and Graham, P. (1974). Women In Higher Education. Washington, D.C. : American Council On Education.

Jefferson, Thomas, (1776). Declaration of Independence.

Jongeward, D., and Scott, D. (1973). Affirmative Action For Women. Massachusetts: Addison-Wesley Publishing.

Lindgren, R., Ota, P., Zirkel, P., and Gieson, N. (1984). Sex Discrimination Law In Higher Education. Washington, D.C.: Association For The Study On Higher Education.

Reynolds, W. (1984a). The Affirmative Action Association. Chicago, Ill.

Reynolds, W. (1986a). The Fifth Annual Conference on EEO and Affirmative Action. Washington, D.C.

Reynolds, W. (1985). The Florida Bar Continuing Legal Education Committee and the Labor and Employment Law-Section-Equal Employment Opportunity Practice Seminar, Miami, FL.

Reynolds, W. (1986b). The International Association For Personnel Women. Arlington, Virginia.

Reynolds, W. (1984b). The National Foundation For The Study of Equal Employment Policy. Washington, D.C.

Somers, P. A., and Clementson-Mahr, J. (1979). Sexual Extortion In The Workplace. The Personnel Administrator, 24, 23-28.

Taylor, E., and Shavlik, D. (1977). To Advance Women: A National Identification Program. Educational Record, 58, 91-100.

Tidball, E. (1973). Perspective On Academic Women and Affirmative Action. Educational Record, 54, 130-135.

Tinsley, A., Secor, C., and Kaplan, S. (1984). Women In Higher Educational Administration. San Francisco: Jossey-Bass, Incorporated.

OTHER WORKS CONSULTED

ABNA Special Report. (1981). Sexual Harassment and Labor Relations. Washington, C.C.: Bureau of National Affairs.

Astin, H. S., and Bayer, A.E. (1972). Sex Discrimination In Academe. Educational Record, 24, 101-118.

Baxter, R. (1985). Sexual Harassment in The Workplace. New York: Executive Enterprises Publications.

Blandin, I. (1909). History of Higher Education of Women In The South Prior To 1860. New Haven: Neale Publishing.

Chalmers, E.L. (1972). Achieving Equity for Women in Higher Education Graduate Enrollment and Faculty Status. Journal of Higher Education, 43, 517-524.

Commission on Civil Rights. (1981). Affirmative Action In The 1980's: Dismantling The Process of Discrimination. Clearing House Publication.

Holt, M.E. (1981). Strategies For The Ascent of Woman In Higher Educaiton Administration in the 80's. National Association of Women Deans, Administrators and Counselors, 44, 21-24.

Loeb, J., Ferber, M., and Lowry, H. (1978). The Effectiveness Of Affirmative Action For Women. Journal Of Higher Education, 49, 1-10.

MacKinnon, C. (1979). Sexual Harassment In The Workplace. New Haven: Yale University Press.

Meyer, M., Berchtold, I., Oestreich, J., and Collins, F. (1981). Sexual Harassment. New York: Petrocelli Books.

National Civil Service League. (1973). Judicial Mandates To Affirmative Action. Washington, D.C.

Oehmke, T. (1974). Sex Discrimination In Employment. Detroit, MI: Trends Publishing.

Stimpson, C. (Ph.D). (1973). Discrimination Against Women. New York: R. R. Bowker Company.

Van Alstyne, C., Withers, J., and Elliot, S. (1977). Affirmative In Action. Change, 12, 39-60.

VanderWaer, L. (1982). Affirmative Action In Higher Education. New York: Garland Publishing.